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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/820,832
Filing Date: April 07, 2004
Appellant(s): ENDLER ET AL.

Thomas F. Lebens, Reg. No. 38,221
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 10, 2010 appealing from the Office action mailed December 7, 2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-5 and 7-30

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

7,343,317	JOKINEN et al.	03-2008
2003/0195833	BARANOWSKI et al.	10-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7-16 and 23-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Jokinen et al. U.S. Pat. No. 7,343,317 (hereinafter Jokinen).

As per claim 1, Jokinen discloses a method comprising:

detecting a device capable of receiving and transmitting an electronic message
(Summary of Invention; abstract; col. 14, lines 6-25; col. 5, lines 10-14 and 18-30);

searching for a plurality of promotions stored in a storage module (col. 6, lines 50-54);

receiving a signal from the detected device (col. 5, lines 22-32; There are several ways in which the mobile devices are tracked through the mobile network including using GPS, a cell identification system, and/or a system that can identify coordinates of the mobile device using location information of a short range network node. In all of these instances, a signal providing some identification information (in addition to

location) of the mobile device must be sent from the mobile device.) and detecting a device profile corresponding to the device using information contained in the signal (item 96 in Figure 3A; col. 5, lines 41-61; The signal from the mobile device is then used to determine the profile of the mobile device.);

selecting a particular promotion from the plurality of promotions based on the preference for the product or the service (col. 5, lines 53-61; col. 5, lines 41-55; col. 6, lines 3-6; col. 6, lines 51-55) and the geographical boundary associated with the device profile (col. 5, lines 33-38);

As per claim 2, Jokinen further discloses the method according to claim 1 further comprising detecting the location of the device using the global positioning system (col. 5, lines 22-38; abstract).

As per claim 3, Jokinen further discloses the method according to claim 2 wherein the geographical boundary is relative to the current location of the device (col. 5, lines 22-38).

As per claim 4, Jokinen further discloses the method according to claim 1 wherein in the step of selecting a particular promotion, the particular promotion is selected based on the valid hours of availability (col. 7, lines 40-48, col. 8, lines 16-25).

As per claim 5, Jokinen further discloses the method according to claim 1 wherein in the step of searching for a plurality of promotions, each of the plurality of promotions includes an electronic coupon (col. 6, lines 3-6).

As per claim 7, Jokinen further discloses the method according to claim 1 further comprising detecting a promotion profile for each of the plurality of promotions (col. 8, lines 16-20).

As per claim 8, Jokinen further discloses the method according to claim 7 wherein the promotion profile for each of the plurality of promotions includes location information (col. 5, lines 33-38, col. 7, lines 40-48).

As per claim 9, Jokinen further discloses the method according to claim 7 wherein the promotion profile for each of the plurality of promotions includes a description of offerings (col. 6, line 19).

As per claim 10, Jokinen further discloses the method according to claim 7 wherein the promotion profile includes days and time of validity for each of the plurality of promotions (col. 8, lines 16-31, col. 11, lines 1-26).

As per claim 11, Jokinen further discloses the method according to claim 7 wherein selecting the particular promotion is based on the promotion profile for each of the plurality of promotions (col. 8, lines 47-51).

As per claim 12, Jokinen further discloses the method according to claim 1 further comprising displaying the particular promotion on the device (abstract).

As per claim 13, Jokinen further discloses the method according to claim 1 wherein the particular promotion displayed on the device includes a location field (col. 13, lines 30-32, col. 13, lines 42-54) a type of product or service field, (col. 13, lines 27-28) an hours of availability field (Fig. 5, place order before 8 P.M., expiration time, col. 12, lines 46-52, col. 7, lines 40-49) and contact information field (col. 13, lines 25-28,

Fig. 10, B-Burger, the name of the store on the electronic coupon is read as contact information).

As per claim 14, Jokinen further discloses the method according to claim 1 wherein the device is associated with a particular user (col. 9, lines 45-49) and has attributes that include a device attribute, (col. 4, lines 48-60, col. 7, lines 4-30) a user identity attribute, (col. 5, lines 53-61) a geographic boundary attribute (col. 5, lines 33-38) and a product or service attribute (col. 5, lines 53-61).

As per claim Claim 15, Jokinen further discloses the method according to claim 1 wherein the device is associated with multiple users (col. 9, lines 20-41) and has attributes that include a device attribute, (col. 4, lines 48-60, col. 7, lines 4-30) a plurality of user identity attributes, (col. 5, lines 53-61) a geographic boundary attribute (col. 5, lines 33-38) and a product or service attribute (col. 5, lines 53-61).

As per claim 16, Jokinen discloses the computer-readable medium for implementing the method of claim 1 (see discussion of claim 1).

As per claim 23, Jokinen discloses a system, comprising:
detecting a device associated with a user; (col. 14, lines 6-25; col. 5, lines 18-30)
storing a device record containing user information associated with the user and a promotion record containing promotion information associated with a promotion; and (col. 5, lines 39-43; col. 6, lines 18-20)

receiving a signal from the device containing information (col. 5, lines 22-32;
There are several ways in which the mobile devices are tracked through the mobile network including using GPS, a cell identification system, and/or a system that can

identify coordinates of the mobile device using location information of a short range network node. In all of these instances, a signal providing some identification information (in addition to location) of the mobile device must be sent from the mobile device.) and retrieving the user profile information using the information (item 96 in Figure 3A; col. 5, lines 41-61; The signal from the mobile device is then used to determine the profile of the mobile device.);

selecting a particular promotion based on the user information that includes a preference for a product or a service (col. 5, lines 53-61, col. 5, lines 41-55, col. 6, lines 3-6, col. 6, lines 51-55) and a geographical boundary associated with the device, (col. 5, lines 33-38) and the promotion information (col. 8, lines 48-51, claim 11).

As per claim 24, Jokinen further discloses the computer-readable medium according to claim 23 wherein the geographical boundary is relative to the current location of the device (col. 5, lines 22-38).

As per claim 25, Jokinen further discloses the system according to claim 23 wherein the current location of the device is determined using a global positioning system (col. 5, lines 22-38; abstract).

As per claim 26, Jokinen further discloses the system according to claim 23 wherein the particular promotion selected by the promotion selection module includes an electronic coupon (abstract; col. 6, lines 3-6).

As per claim 27, Jokinen further discloses the system according to claim 23 wherein the promotion information includes a time and data validity (col. 8, lines 16-31; col. 11, lines 1-26).

As per claim 28, Jokinen further discloses the system according to claim 23 wherein the promotion information includes location information (col. 5, lines 33-38; col. 7, lines 40-48).

Claims 17-22 and 29-30 are rejected under 35 U.S.C. 102(a,e) as being anticipated by Baranowski et al. U.S. Pub. No.2003/0195833.

As per claim 17, Baranowski discloses a method comprising:

detecting a plurality of devices capable of receiving and transmitting an electronic message (paragraph 12; Figure 1);

detecting a jointly scheduled meeting stored on at least one of the plurality of devices, wherein the scheduled meeting is among participants including at least one participant associated with the at least one of the plurality of devices (paragraphs 10, 84, 87; An attendee may manage jointly scheduled meetings via the portable device, where the scheduled meetings are among participants of a tradeshow.);

receiving a location parameter from the at least one of the plurality of devices for the scheduled meeting (paragraph 52; Time and location for the scheduled meeting/event may be managed by the attendee via the portable device.);

searching for a plurality of promotions stored in a storage module (paragraph 62; The controller searches and selects the advertisements to be displayed.); and

selecting a particular promotion from the plurality of promotions based on the location parameter (paragraph 12; Advertisements may be displayed to attendees according to their schedules and locations.).

As per claim 18, Baranowski further discloses the method according to claim 17 wherein selecting the particular promotion is further based on a time of the meeting (paragraph 12; Advertisements may be displayed to attendees according to their schedules and locations.).

As per claim 19, Baranowski further discloses the method according to claim 17 wherein selecting the particular promotion further comprises matching the location parameter with the particular promotion such that the particular promotion is utilized at the location (paragraphs 29, 62; An advertisement may be displayed to an attendee that allows the attendee to purchase a product, thereby utilizing the advertisement.).

As per claim 20, Baranowski discloses the method according to claim 17 wherein selecting the particular promotion further comprises matching the location parameter with the particular promotion such that the particular promotion is utilized at a competing location (paragraphs 29, 62; An advertisement may be displayed to an attendee that allows the attendee to purchase a product, thereby utilizing the advertisement. The advertisement may be viewed at a specified location within the tradeshow, where the different locations within the tradeshow can have a broadest reasonable interpretation of competing exhibitors.).

As per claim 21, Baranowski discloses the method according to claim 17 wherein selecting the particular promotion further comprises matching the location with the particular promotion such that the particular promotion is utilized at a location unrelated to a location associated with the scheduled meeting (paragraphs 29, 62; An advertisement may be displayed to an attendee that allows the attendee to purchase a

product, thereby utilizing the advertisement. The advertisement may be viewed at any specified location within the tradeshow, where the different locations within the tradeshow may be considered unrelated as they represent different exhibitors/vendors.).

With respect to claims 19-21, Examiner submits that the label associated with the location (e.g., the location being a competing location or an unrelated location) is not given much patentable weight as the label of the location does not impact the manipulative steps of the method. In other words, that the location is a competing or unrelated one does not affect how the promotion is utilized.

As per claim 22, Baranowski further discloses the method according to claim 17 further comprising detecting a current location for each of the plurality of devices (paragraphs 27, 35, 53-54; The attendee may view his current location on a map as well as the location of other attendees.).

As per claim 29, Baranowski discloses the computer-readable medium for implementing the method of claim 17 (see discussion of claim 17).

As per claim 30, Baranowski discloses the method according to claim 17, wherein the scheduled meeting is scheduled using the portable device's calendar function (paragraphs 49, 85-87; Attendees may modify their schedules via the portable device.).

(10) Response to Argument

Appellant's arguments have been fully considered, but are found unpersuasive.

Appellant presents two main arguments in the Appeal Brief:

1) that Jokinen fails to describe "receiving a signal from the detected device and detecting a device profile corresponding to the device using the information contained in the signal" (page 15 of the Appeal Brief); and

2) that Baranowski fails to describe or suggest "receiving a location parameter from the at least one of the plurality of devices for the scheduled meeting" (page 24 of the Appeal Brief).

In response to argument 1), Examiner respectfully disagrees. Jokinen teaches receiving a signal from the detected device in col. 4, lines 49-54, which describes a wireless network that links to mobile terminals such as cell phones or PDAs, etc. and permits communication among mobile terminals, in col. 4, lines 60-61, which discusses that the mobile network may be a wireless network, and in col. 5, lines 9-14, which discusses that mobile terminals communicate within a mobile network via either a one-way link or a bidirectional link. Figure 1 illustrates the wireless network (item 30), the mobile terminals (item 20) and the communication link (item 32). Thus, Jokinen teaches receiving a signal from a detected device.

Next, Jokinen teaches that the communication link is used to provide identification and location information of the mobile terminal from the mobile terminal to the mobile network. See, for example, col. 5, lines 22-32, which discusses several

ways of identifying and locating mobile terminals such as via GPS and a cell identification system. In these examples, a signal providing some identification information of the mobile terminal must be sent from the mobile device to the mobile network in order for the network to identify and locate the mobile terminal. The identification and location information are then stored in the mobile location database (item 35 in Figure 1; col. 5, lines 15-22). Thus, Jokinen teaches using information contained in the signal to identify and locate the detected device.

Finally, using the information contained in the signal (e.g., the location and identification information from the mobile terminal), the profile corresponding to the device is determined. See, for example, col. 5, lines 40-61, where the profiles database allows the system to limit the sending of advertisements to mobile terminals in a particular location and having certain user preferences. Additionally, Jokinen discloses that the preference data may be stored directly in the memory of the mobile terminal (see col. 5, lines 61-63). Jokinen also teaches in col. 7, lines 50-56 that the advertisement server checks the current degree of service utilization as recorded in the current service utilization database so that it knows which mobile terminals, for which user profile information is available, are ready to receive an incoming transmission. Further, in col. 9, line 65-col. 10, line 2, Jokinen discloses that mobile terminals that meet specified criteria according to the profiles database, and are in a specific location designated by the advertiser, are selected to receive electronic coupons. Accordingly, Jokinen teaches that the information contained in the signal from the mobile terminal is used to determine the profile corresponding to the mobile terminal.

In response to argument 2), Examiner respectfully disagrees. Paragraph 52 discusses that attendees of the trade show receive from their portable device event time and location. That the portable device first receives such information from a controller is irrelevant as the way the claim is currently recited does not preclude the portable device from first receiving the data from somewhere else. All that is required of the disputed limitation is that something or someone receives a location parameter for a scheduled meeting from a device. Paragraph 52 teaches this as it is the attendee that receives from the portable device location information about the next scheduled event.

Additionally, paragraph 55 discloses a messaging capability that allows users of the portable devices to send messages to each other. Since the messaging capability includes the sending of text messages, the content of the text message could include the location of a scheduled event at the tradeshow.

Therefore, Baranowski does teach receiving a location parameter from the at least one of the plurality of devices for the scheduled meeting.

In conclusion, Appellant's arguments have been fully considered, but are found unpersuasive.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/C. Michelle Tarae/
Primary Examiner, Art Unit 3688
July 16, 2010

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